

Learned counsel appearing for the petitioners has stated



that even though the petitioners have honourably been acquitted from the criminal charges by a court of competent jurisdiction, the licensing authority brushing aside the decision of the court on the ground that the same has been passed due to the fact that the prosecution could not prove its case as certain witnesses have become hostile, has refused to restore the respective arms licence of the petitioners.

No counter affidavit has been filed on behalf of the State, however, learned counsel appearing for the State has submitted that it would be evident from the judgment of acquittal which has been brought on record as Annexure-5 to the supplementary affidavit filed today, that the witnesses have become hostile and even the informant could not say a single word against the accused persons, therefore, the order passed by the licensing authority cannot be faulted with.

I do not find any force in the submission made on behalf of the State. The appellate authority has upheld the order passed by the licensing authority placing reliance upon a decision of Kerala High Court reported in **1988 CRI.L.J.336 (V.K.Thomas Vs. Revenue Board Member (L.R.))**. It has been stated that the acquittal in such cases does not automatically entail eligibility for grant of arms licence. He may be correct to that extent that the acquittal itself may not entitle to a person for grant of licence but for refusal or cancellation of licence there must be sound reason as enunciated and

that has to be recorded. From perusal of the impugned order, it does not appear that any other aspect has been considered due to which the petitioners have been found unfit to hold licence except that the criminal cases in which judgment of acquittal has been passed.

This Court has an occasion to consider the aforesaid issue in **C.W.J.C.No.6661/2013 (Lalan Singh Vs. The State of Bihar)** which was decided vide judgment dated 15.09.2015. It has been held in the aforesaid case that such analysis or scrutiny of the judgment of the competent court in a statutory proceeding is not permissible if the same has attained its finality. The licensing authority cannot say that judgment, since is based on such ground, it should be disregarded or should not be taken as a judgment of acquittal. In fact, by going through the judgment, it appears that the court has gone to the extent to say that informant has not stating any word against the accused persons raising serious doubt about the commission of the occurrence itself indicating that there was false implication of the accused person in the case. No other material appears to be available on record to disentitle the petitioners from holding arms license as enunciated under Section 14 of the Act, in my view, such stand could not have been taken by the licensing authority or the appellate authority. Of course, a Full Bench of this Court in ***Kapildeo Singh Vs. State of Bihar and Ors. reported in AIR 1987 Patna 122*** has opined that

actual conviction or acquittal on the criminal charges does not have an inflexible or conclusive impact on the exercise of the discretion by the licensing authority as even if the holder of the licence may be acquitted by narrowly giving the benefit of doubt, the licensing authority could still take a view that, along with other factors, such a person may not be fit for holding arms licence, however, it does not mean that the acquittal by a court itself could be questioned by the licensing authority being merely on the ground of non-production of witnesses by the prosecution etc. but the licensing authority can still cancel or refuse to restore the licence on the basis of other factors if available to his subjective satisfaction. In the case in hand, no other factor has been considered save and except that the petitioner was involved in a criminal case in which later on he has been acquitted of the charges.

Accordingly, this writ application succeeds. Both the impugned orders are quashed and set aside. The matter is remitted back to the licensing authority for fresh consideration in accordance with law also considering the aforesaid judgment rendered by this Court within a period of two months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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